



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 19, 1998

Ms. Dianne Eagleton, Supervisor
Records Division
North Richland Hills Police Department
P.O. Box 820609
North Richland Hills, Texas 76182-0609

OR98-2771

Dear Ms. Eagleton:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 119688.


The North Richland Hills Police Department (the "department") received a request for the arrest records of a named individual. You claim that the requested information is excepted from disclosure based on common-law privacy and section 552.108 of the Government Code. We have considered your arguments and have reviewed the submitted information.

Although you have raised section 552.108 of the Government Code, the applicable exception to raise in this instance is section 552.101. Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," including information protected by the common-law right of privacy. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 683-85 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). The requestor is asking for all arrest records in which the named individual is identified. The requestor is, in essence, asking that the department compile this individual's criminal history. Where an individual's criminal history information has been compiled by a governmental entity, the information takes on a character that implicates the individual's right to privacy. *See United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989) (concluding that federal regulations which limit access to criminal history record information that states obtain from the federal government or other states recognize privacy interest in such information). Similarly, open records decisions issued by this office acknowledge this privacy interest. *See* Open Records Decision Nos. 616 (1993), 565 (1990). The department,

therefore, must withhold all compilations of the referenced individual's criminal history pursuant to section 552.101.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "June B. Harden". The signature is fluid and cursive, with the first name "June" and last name "Harden" clearly distinguishable.

June B. Harden
Assistant Attorney General
Open Records Division

JBH/ch

Ref.: ID# 119688

Enclosures: Submitted documents

cc: Ms. Patricia A. Kelly
7800 Mockingbird Lane #186
North Richland Hills, Texas 76180
(w/o enclosures)